

# STANDARD GRANT CONDITIONS

The Subgrantee understands and agrees that the grant shall be subject to and incorporate the following conditions of the Office of Justice Programs and the Governor's Crime Commission (GCC). The Subgrantee shall include provisions appropriate to effectuate the purposes of these conditions in all contracts of employment, consultant agreements, and contracts issued under an approved application.

## I. General Information

### A. Circulars and Common Rules:

This Guide incorporates by reference the provisions of the Office of Management and Budget (OMB) circulars, agency regulations (both program and administrative) published in the Code of Federal Regulations (CFR), and government-wide common rules applicable to grants and cooperative agreements. These circulars and common rules include the following:

#### OMB CIRCULARS / CODE OF FEDERAL REGULATIONS

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##### Administrative Requirements:

OMB Circular A-102 "Grants and Cooperative Agreements with State and Local Governments"

2 CFR Part 215 "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations" *(formerly known as OMB Circular A-110)*.

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##### Cost Principles:

2 CFR Part 220 "Cost Principles for Educational Institutions" *(formerly known as OMB Circular A-21)*

2 CFR Part 225 "Cost Principles for State, Local, and Indian Tribal Governments" *(formerly known as OMB Circular A-87)*

2 CFR Part 230 "Cost Principles for Nonprofit Organizations" *(formerly known as OMB Circular A-122)*

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##### Audit Requirements:

OMB Circular A-133 "Audits of States, Local Governments and Nonprofit Organizations"

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## GOVERNMENT-WIDE COMMON RULES

**"Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Units of Governments,"** (codified at 28 CFR Part 66). (Grants Management Common Rule for State and Local Units of Governments.)

**"Government-wide Debarment and Suspension (Nonprocurement)"** (codified at 28 CFR Part 67) and **"Government-wide Requirements for Drug-free Workplace (Grants)"** (codified at 28 CFR Part 83).

**"New Restrictions on Lobbying"** (codified at 28 CFR Part 69).

For additional information on grants management and to obtain copies of current circulars and common rules, please visit the OMB website at [www.whitehouse.gov/OMB/circulars/index.html](http://www.whitehouse.gov/OMB/circulars/index.html).

## NORTH CAROLINA ADMINISTRATIVE CODE

**09 NCAC 03M .0201 Allowable Uses of State Funds** - Expenditures of State funds by any grantee shall be in accordance with the Cost Principles outlined in 2 CFR Part 225 (*formerly known as OMB Circular A-87*).

### **B. Conflicts of Interest:**

Personnel and other officials connected with GCC grants shall adhere to these requirements:

**1. Advice:** No official or employee of a state or unit of local government or a nongovernmental grantee/subgrantee shall participate personally through decisions, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in any proceeding, application, request for a ruling or other determination, contract, award, cooperative agreement, claim, controversy, or other particular matter in which award funds (including program income or other funds generated by grant funded activities) are used, where to his/her knowledge, he/she or his/her immediate family, partners, organization other than a public agency in which he/she is serving as an officer, director, trustee, partner, or employee or any person or organization with whom he/she is negotiating or has any arrangement concerning prospective employment, has a financial interest, or has less than an arms-length transaction.

**2. Appearance:** In the use of these grant funds, officials or employees of state or local units of government and nongovernmental grantees/subgrantees shall avoid any action which might result in, or create the appearance of:

- a) Using his or her official position for private gain;
- b) Giving preferential treatment to any person;
- c) Losing complete independence or impartiality;
- d) Making an official decision outside official channels; or
- e) Affecting adversely the confidence of the public in the integrity of the government or of the program.

For example, where a recipient of grant funds makes sub-awards under any competitive process and an actual conflict or an appearance of a conflict of interest exists, the person for whom the actual or apparent conflict of interest exists should recuse himself or herself not only from reviewing the application for which the conflict exists, but also from the evaluation of all competing applications. Also, it is a conflict of interest for a board member of a non-profit organization to receive consulting fees or contracts from grants to organizations that he/she oversees as a member of the board.

## **II. Pre-Award Requirements**

### **A. Application Process**

#### **Certified Assurances (Non-Discrimination Requirements)**

Applicants must assure and certify that they comply, and assure the compliance of their subrecipients, with all applicable civil rights nondiscrimination requirements as set forth on the OJP Assurances Form 4000/3.

In the event that a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, national origin, sex, or disability against a recipient of Federal funds, or any subgrantee or contractor of that recipient, a copy of such findings must be forwarded immediately to the Governor's Crime Commission.

All recipients and their subrecipients must also provide the Office for Civil Rights with an Equal Employment Opportunity Plan, if required to maintain one, where the award is \$500,000 or more.

**The Subgrantee further agrees to post in a conspicuous place, available to all employees and applicants for employment, notices setting forth the provisions of the EEOP, as supplemented in the Department of Labor Regulations 41 CFR Part 60.**

#### **Debarment and Suspension Certification**

This certification must be completed prior to recommendation for or against an award. The governmentwide common rule for debarment and suspension, 28 CFR Part 67, provides guidance on requirements that recipients must meet in order to receive Federal funds.

1. Executive departments and agencies shall participate in a system for debarment and suspension from programs and activities involving Federal financial and nonfinancial assistance and benefits. Debarment or suspension of a participant in a program by one agency has government-wide effect. It is the policy of the Federal government to conduct business only with responsible persons, and these guidelines will assist agencies in carrying out this policy.
2. Certification Regarding Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (OJP Form 4061/6). Certifications must be

completed and submitted by recipients of discretionary awards to the awarding agency's program offices during the application stage. Block/formula recipients are exempt from submission of this certification but are responsible for monitoring subrecipient submissions of the lower tier certification (OJP Form 4061/1) and for maintaining them at the State level.

3. Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-- Lower Tier Covered Transactions (OJP Form 4061/1 or like form). This requirement includes persons, corporations, etc. that have critical influence on or substantive control over the award. The direct recipient will be responsible for monitoring the submission and maintaining the official subrecipient certifications.

In summary, the debarment and suspension common rule requires that both recipients and their subrecipients certify they will comply with the debarment and suspension common rule. Subcontractors are not required to certify if their subaward is less than \$100,000.

### **Drug-Free Workplace Certification**

This certification must be submitted prior to recommendation for or against an award. The government-wide common rule for drug-free workplace, 28 CFR Part 83, provides guidance on requirements that recipients shall meet in order to receive Federal funds.

Subpart F of 28 CFR Part 83 implements the statutory requirements of the Drug-Free Workplace Act of 1988. All recipients receiving awards from any Federal agency shall certify to that agency that they will maintain a drug-free workplace. A recipient who is an individual shall certify to the agency that his or her conduct of award activity will be drug-free. If a recipient makes a false certification, he or she is subject to suspension, termination, and debarment.

1. The State agency responsible for administering the block/formula award shall submit a drug-free workplace certification to the awarding agency and shall be responsible for obtaining a drug-free workplace certification from each State agency that is subawarded funds. Subrecipients that are not State agencies are not required to submit a drug-free workplace certification.
2. A recipient is required to make the required certification for each award. The one exception to this rule is that a recipient which is a State, including a State agency, may elect to make a single annual certification to each awarding agency from which it obtains awards, rather than making a separate certification for each award or workplace. Only one such annual certification needs to be made to each Federal agency which will cover all of that State agency's workplaces.

In summary, the drug-free workplace common rule requires that ONLY direct recipients of federal awards certify they will comply with the drug-free workplace common rule. There is no dollar threshold for certification.

## Lobbying Certification

This certification must be submitted prior to recommendation for or against an award. The Department of Justice's (DOJ) codification of the government-wide common rule for restrictions on lobbying, 28 CFR Part 69, provides guidance on requirements that recipients shall meet in order to receive Federal funds.

The following restrictions on lobbying are applicable to all recipients and subrecipients. Interim Final Guidance for New Restrictions on Lobbying was published in the *Federal Register* in December 1989. The Lobbying Disclosure Act of 1995 included amendments that have an impact on the guidance provided in 1989. Per 31 USC 1352, the restrictions on lobbying are as follows:

1. No federally appropriated funds may be expended by the recipient of a Federal award, cooperative agreement, or contract to pay a person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the entering into of any cooperative agreement; and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, or cooperative agreement.
2. Each person who requests or receives from an agency an initial Federal contract, award, or cooperative agreement (including subcontracts, subawards, and contracts under cooperative agreements) exceeding \$100,000 shall file with that agency a certification regarding lobbying. The certification shall be submitted to the agency making the award. Each person is certifying that:
  - a. He/she has not made, and will not make, any payment for a lobbying activity.
  - b. If any non-Federal funds have been paid or will be paid to any person, he/she will complete and submit a "Disclosure of Lobbying Activities" form (Disclosure Form).
  - c. The language of this certification will be included in his/her award documents for all subawards at all tiers (including subcontracts, subawards and contracts under awards, and cooperative agreements), and all subrecipients shall certify and disclose accordingly.
  - d. Each person, if applicable, shall submit the Disclosure Form to the agency making the award. The recipient or subrecipient is responsible for reporting lobbying activities of its employees if the employee's tenure is less than 130 working days within one year immediately preceding the date of the recipient's or subrecipient's application or proposal submission.
  - e. A subrecipient who requests or receives Federal funds exceeding \$100,000 shall be required to file with the agency making the award a certification and a Disclosure Form, if applicable. All certifications shall be maintained by the

agency making the award and all Disclosure Forms shall be forwarded from tier to tier until received by the Federal agency making the award. That agency shall forward all Disclosure Forms to the awarding agency. The Disclosure Form shall contain the following information:

1. Name and address of reporting entity
  2. Federal program name
  3. Federal award number
  4. Federal award amount
  5. Name and address of lobbying registrant
3. Each person shall file a Disclosure Form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any Disclosure Form previously filed by such persons. Examples of such events are:
- a. A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action;
  - b. A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or
  - c. A change in the officer(s), employee(s), or member(s) contacted to influence or attempt to influence a covered Federal action.
4. Penalties and enforcement of lobbying restrictions shall be as follows:
- a. Any person who makes an expenditure prohibited by the New Restrictions on Lobbying shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.
  - b. Any person who fails to file or amend the Disclosure Form to be filed or amended, if required, shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

In summary, the common rule for lobbying requires that recipients and their subrecipients whose awards exceed \$100,000 must certify they will comply with the lobbying common rule.

In order to comply with the certification requirements provided in the common rules for lobbying, drug-free workplace, and suspension and debarment (so that recipients do not have to sign three certifications), all are combined into OJP form 4061 entitled "Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements". This form should be submitted along with the Notice of Grant Implementation (GCC-01).

## **Policy on Making Awards**

This agency will not make an award to any applicant who has an overdue audit report or an open audit report where the recipient has not attempted to respond or has taken no action to resolve findings. Every applicant for funding is on notice that unless they are in compliance with the audit requirements of the Federal and/or State governments, their application may be rejected.

## **B. Conditions of Award and Acceptance**

### **Availability of Funds**

This grant award is contingent upon availability of funds approved by the Congress or the State Legislature.

### **Award Document**

After completion of the internal review process, grant applications designated for approval are formally awarded through the issuance of an award document. This document includes:

- Name of Applicant Agency and Implementing Agency
- Project/Budget period
- Type/Source of funding
- Amount of funding
- Grant number (14 digit number - different from the pre-application number)
- Special conditions, as appropriate, that the implementing agency must meet if the award is accepted

This award notification is applicable to all approved applications. Correspondence concerning the award should refer to the designated grant number shown on the award document.

### **Acceptance Procedures**

The award document constitutes the operative document obligating and reserving grant funds for use by the recipient in execution of the program or project covered by the award. Such obligation may be terminated without further cause if the recipient fails to affirm its timely utilization of the award by signing both the award document and special conditions and returning them to the awarding agency. By signing the award acceptance, the recipient acknowledges that the Project Director must be an employee of the recipient's organization. No grant funds will be disbursed to the recipient until the signed acceptance and special conditions have been received by the awarding agency. Recipients should review and understand all special conditions prior to the acceptance of the award.

**NOTE:** If the name of the person accepting the award is not the name pre-printed on the award document, a grant Adjustment Request will be needed to explain the reason for the change.

## Special Conditions

These are incorporated as terms and conditions of the award. They may include special provisions for additional submissions, audit, conferences, and disposition of program income.

1. **All Awards** will include special conditions concerning: (a) compliance with this grant award packet, and (b) compliance with the audit requirements. Failure to comply with special conditions will result in a withholding of funds, and may result in termination of the award.

Also, the recipient, upon accepting the award, agrees to complete and keep on file, as appropriate, the immigration and Naturalization Service Employment Eligibility verification form (I-9). This form is to be used by grant recipients to verify that persons are eligible to work in the United States.

2. **Information Technology (IT) Award** recipients are prohibited from drawing funds against the award until the recipient notifies the State IT Point of Contact of the IT project by written correspondence, which includes a brief description of the project. The intent of this condition is to facilitate information system communication.
3. **Cancellation for Block and Formula Subawards.** The State must condition each block and formula subaward to include the following cancellation procedures.
  - a. **Commencement within 60 Days.** If a project is not operational within 60 days of the original start date of the award period, the subrecipient must report by letter to the State the steps taken to initiate the project, the reasons for delay, and the expected start date.
  - b. **Operational within 90 Days.** If a project is not operational within 90 days of the original start date of the award period, the subrecipient must submit a second statement to the State explaining the implementation delay. Upon receipt of the 90-day letter, the State may cancel the project and redistribute the funds to other project areas. The State may also, where extenuating circumstances warrant, extend the implementation date of the project past the 90-day period. When this occurs, the appropriate subaward files and records must so note the extension.

## C. Standards for Financial Management Systems

All recipients are required to establish and maintain accounting systems and financial records to accurately account for funds awarded to them. These records shall include both grant funds and all matching funds of State, local, and private organizations, when applicable. State recipients shall expend and account for grant funds in accordance with State laws and procedures for expending and accounting for their own funds. Subrecipients of States shall follow the financial management requirements imposed on them by States. (State and local procedures must ensure that subrecipients comply with the financial management standards found at 28 CFR Parts 66 and 70.)

## **Accounting System**

The recipient is responsible for establishing and maintaining an adequate system of accounting and internal controls for itself, and for ensuring that an adequate system exists for each of its subrecipients. An acceptable and adequate accounting system:

1. Presents and classifies projected historical cost of the grant as required for budgetary and evaluation purposes;
2. Provides cost and property control to ensure optimal use of funds;
3. Controls funds and other resources to assure that the expenditure of funds and use of property conform to any general or special conditions that apply to the recipient;
4. Meets the prescribed requirements for periodic financial reporting of operations; and
5. Provides financial data for planning, control, measurement, and evaluation of costs.

## **Total Cost Budgeting and Accounting**

Accounting for all funds awarded by the Governor's Crime Commission shall be structured and executed on a "total program cost" basis. That is, total program costs, including grant funds, matching shares, and any other fund sources included in the approved project budget or received as program income shall be the foundation for fiscal administration and accounting. Unless otherwise prohibited by statute, applications for funding and financial reports require budget and cost estimates on the basis of total costs.

## **Commingling of Funds**

Agencies shall not require physical segregation of cash deposits or the establishment of any eligibility requirements for funds which are provided to a recipient. However, the accounting systems of all recipients and subrecipients must ensure that agency funds are not commingled with funds from other agencies. Each award must be accounted for separately. Recipients and subrecipients are prohibited from commingling funds on either a program-by-program or project-by-project basis.

Funds specifically budgeted and/or received for one project may not be used to support another. Where a recipient's or subrecipient's accounting system cannot comply with this requirement, the recipient or subrecipient shall establish a system to provide adequate fund accountability for each project it has been awarded.

## **Recipient and Subrecipient Accounting Responsibilities**

1. **Reviewing Financial Operations.** Direct recipients should be familiar with, and periodically monitor, their subrecipients' financial operations, records, system, and procedures. Particular attention should be directed to the maintenance of current financial data.

2. **Recording Financial Activities.** The subrecipient's award or contract obligation, as well as cash advances and other financial activities, should be recorded in the books of the recipient in summary form. Subrecipient expenditures should be recorded on the books of the recipient or evidenced by report forms duly filed by the subrecipient. Matching contributions applied to programs or projects by subrecipients should likewise be recorded, as should any program income resulting from program operations.
3. **Budgeting and Budget Review.** The recipient should ensure that each subrecipient prepares an adequate budget on which its award commitment will be based. The detail of each project budget should be maintained on file by the recipient.
4. **Accounting for Matching Contributions.** Recipients will ensure that the requirements, limitations, and regulations pertinent to matching contributions are applied.
5. **Audit Requirements.** Recipients must ensure that subrecipients have met the necessary audit requirements contained in this packet (see Section O).
6. **Reporting Irregularities.** Recipients and their subrecipients are responsible for promptly notifying the awarding agency and the audit agency of any illegal acts or irregularities and of proposed and actual actions, if any. Illegal acts and irregularities include conflicts of interest, falsification of records or reports, and misappropriation of funds or other assets.
7. **Debarred and Suspended Organizations.** Recipients and subrecipients must not award or permit any award at any level to any party which is debarred or suspended from participation in Federal assistance programs. For details regarding debarment procedures, see 28 CFR Part 67, Government-wide Debarment and Suspension (Nonprocurement) and 28 CFR Part 83, Government-wide Requirements for Drug-free Workplace (Grants).
8. **Bonding.** The awarding agency may require adequate fidelity bond coverage where a recipient lacks sufficient coverage to protect the government interest.

Where the conduct of a program or one of its components is delegated to a subrecipient, the direct recipient is responsible for all aspects of the program including proper accounting and financial recordkeeping by the subrecipient. Responsibilities include the accounting of receipts and expenditures, cash management, the maintaining of adequate financial records, and the refunding of expenditures disallowed by audits.

### **Supplanting**

Grant funds must be used to supplement existing funds for program activities and must not replace those funds which have been appropriated for the same purpose. Supplanting will be the subject of application review, as well as pre-award review, post-award monitoring, and audit. If there is a potential presence of supplanting, the applicant or grantee will be required to supply documentation demonstrating that the reduction in existing resources occurred for reasons other

than the receipt or expected receipt of grant funds. For certain programs, a written certification may be requested by the Governor's Crime Commission that grant funds will not be used to supplant existing state or local funds.

### **III. Post Award Requirements**

#### **A. Period of Availability of Funds**

##### **Obligation of Funds**

An obligation occurs when funds are encumbered, such as in a valid purchase order or requisition to cover the cost of purchasing an authorized item on or after the begin date and up to the last day of the grant period in the award. Any funds not properly obligated by the recipient within the grant award period will lapse and revert to the awarding agency. The obligation deadline is the last day of the grant award period unless otherwise stipulated. **(Example:** If the award period is 7/1/09 to 6/30/10, the obligation deadline is 6/30/10.)

Grantees must complete performance during this period, and no additional obligations can be incurred after the end of the grant.

##### **Expenditure of Funds**

Block, formula, and discretionary funds which have been properly obligated by the end of the award period will have **45** days in which to be liquidated (expended). Any funds not liquidated at the end of the 45-day period will lapse and revert to the awarding agency, unless a grant adjustment notice extending the liquidation period had been approved prior to the original end date. **(Example:** If the award period is 7/1/09 to 6/30/10, the expenditure deadline is 8/14/10.)

##### **Receipt of Funds**

Unless legislatively mandated otherwise, project funds will be made available through a reimbursement procedure as provided by the Governor's Crime Commission's policy. All claims for reimbursement must be accompanied by copies of supporting documentation (i.e. personnel activity reports/time sheets, travel logs, invoices, etc.). Claims for reimbursement must be submitted no more frequently or less than once a month. Grants failing to meet this requirement, without prior written approval, are subject to cancellation. Payments will be adjusted to correct previous overpayment and disallowances or under payments resulting from audit. The balance of grant funds remaining after the project's first year, or completion of a project as authorized in the approved application will automatically revert to the GCC for unrestricted reallocation.

##### **Withholding of Funds**

The GCC may withhold payments if the subgrantee demonstrates any of the following:

1. **Failure to submit reliable and/or timely financial and/or programmatic reports**
2. Failure to attain program or project goals

3. Failure to adhere to guideline requirements or special conditions
4. Improper engagement of awarding and administering subawards or contracts
5. Failure to achieve timely financial reconciliation and closeout at the end of the project period of any grant awarded to the recipient organization.

The recipient organization will be required to finance its operation with its own working funds until such time the recipient is in compliance with its award.

If the recipient fails to come into compliance within the time period allotted, the award will be terminated. Upon termination, all outstanding reimbursements will be forfeited by the recipient.

### **Continuation Funding**

The awarding of this grant in no way assures or implies continuation of funding beyond the project duration indicated on the grant award. If a continuation application is approved, funds available under the current grant and corresponding cash matching funds must be expended or obligated and documented prior to the implementation of the continuation grant and expenditure of funds.

### **Report Requirements**

The subgrantee agrees to submit, at such times and in such form as may be prescribed, such reports as the Governor's Crime Commission may require, including monthly financial reports, periodic progress, status or performance reports, and final financial reports. **Unless otherwise noted in Special Conditions, final progress or performance reports must be filed with the Governor's Crime Commission within thirty (30) days after the end of the last year of the grant award. All final reports must be on file before the final cost report will be processed.**

### **Award Extension Criteria**

Block, formula, and discretionary awards may be awarded an extension of the obligation date (no-cost extension) in response to a written extension request stating the need for the extension and indicating the additional time required. Written requests can be submitted anytime after accepting the award, but **no later than 60 calendar days** before the end date of the award.

The extension allowable for any project period is generally 3 months, and requests for retroactive extension of project periods will not be considered. Generally, only one extension per award will be permitted. Application for an extension of the obligation period of a program or set of programs beyond 3 months must be justified by extraordinary circumstances beyond the control of the recipient and subrecipient.

Extensions will be considered only if the EXTENSION CRITERIA established below are met by the recipient at the time the request for the extension of the obligation deadline is submitted to the awarding agency for approval. Extension of the expenditure deadline date is allowable for all awards upon written request for the extension and written approval by the awarding agency.

The criteria for extending the obligation or expenditure deadline for a project, program, or set of programs include the following:

1. **Financial Reports.** There must be on file with the awarding agency current and acceptable Cost Reports and all identified financial issues must be resolved.
2. **Special Conditions.** All special conditions attached to the award must be satisfied except those conditions that must be fulfilled in the remaining period of the award. This also includes the performance and resolution of audits in a timely manner.
3. **Extraordinary Circumstances Justification.** A narrative justification must be submitted with the project/program extension request. Complete details must be provided, including the justification and the extraordinary circumstances which require the proposed extension. Explain the effect of a denial of the request on the project or program.

#### **B. Matching or Cost Sharing**

##### **Match Requirements**

Match is to be provided for on a project-by-project basis, unless otherwise stated in the program guidelines. Any deviation from the program guidelines must receive the prior written approval of the awarding agency. Funds provided for a match must be used to support the grant funded project and must be in addition to, and therefore supplement, funds that would otherwise be made available for the stated program purpose. For example, in the case of Byrne Formula Grants, the program area would be law enforcement. Match is restricted to the same use of funds as allowed for the grant funds.

##### **Types of Match**

1. **Cash Match** (hard) includes cash spent for project-related costs. Allowable cash match must include those costs which are allowable with grant funds with the exception of the acquisition of land, when applicable.
2. **In-kind Match** (soft) includes, but is not limited to, the valuation of in-kind services. "In-kind" is the value of something received or provided that does not have a cost associated with it. For example, if in-kind match is permitted by law (other than cash payments), then the value of donated services could be used to comply with the match requirement. Also, third-party in-kind contributions may count toward satisfying match requirements provided the grantee receiving the contributions expend them as allowable costs (see 28 CFR Part 66.24, Grants Mgmt. Common Rule for State and Local Units of Governments).

Not all funding sources allow in-kind match. Of the grants administered by the Governor's Crime Commission, only Title V grants through the Juvenile Justice Committee and grants funded through the Victims Services Committee allow the entire match to be in-kind. Title II Juvenile Justice grants and State Gang grants funded through the Criminal Justice Improvement Committee allow a combination of up to ½ in-kind and ½ cash match. For all other GCC grants which require a match, the match must be cash.

## **Source and Type of Funds**

Cash match (hard) may be applied from the following sources:

1. Funds from States and local units of government that have a binding commitment of matching funds for programs or projects (e.g. state appropriations may be used to match federal grants).
2. Funds from the following:
  - a. Housing and Community Development Act of 1974, 42 USC §5301, et seq. (subject to the applicable policies and restrictions of the Department of Housing and Development).
  - b. Appalachian Regional Development Act of 1965, 40 USC §214.
3. Equitable Sharing Program, 21 USC §881(e) (current guidelines developed by the DOJ Asset Forfeiture Office apply). Forfeited assets used as match from the Equitable Sharing Program would be adjudicated by a Federal court.
4. Funds contributed from private sources.
5. Program income and the related interest earned on that program income generated from projects, provided they are identified and approved prior to making an award.
6. Program income funds earned from seized assets and forfeitures (adjudicated by a State court, as State law permits).
7. Funds appropriated by Congress for the activities of any agency of a Tribal government or the Bureau of Indian Affairs performing law enforcement functions on Tribal lands.
8. Sources otherwise authorized by law.

## **Timing of Matching Contributions**

Matching contributions need not be applied at the exact time or in proportion to the obligation of the grant funds. However, the full matching share must be obligated by the end of the period for which the grant funds have been made available for obligation under an approved program or project. Time-phased matching may be required by the awarding agency on awards to non-governmental recipients.

## **Records for Match**

Recipients and their subrecipients must maintain records which clearly show the source, the amount, and the timing of all matching contributions. In addition, if a program or project has included within its approved budget contributions which exceed the required matching portion, the recipient must maintain records of them in the same manner as it does the awarding agency funds and required matching shares. For all block/formula funds, the State has primary responsibility for subrecipient compliance with the requirements. For all discretionary funds, the recipient and the subrecipient or contractual recipient have shared responsibility for ensuring compliance with the requirements regarding matching shares.

## **Waiver of Match**

1. 42 USC §3754(a) of the Omnibus Crime Control Act provides that, in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any program or project described in 42 USC §3752 of the Crime Control Act, the Federal portion shall be 100 % of such cost.
2. 42 USC §5675 (c) (1) of the Juvenile Justice Act provides that, in the case of an award under Title II to an Indian tribe, if the OJJDP Administrator determines that the tribe does not have sufficient funds available to meet the local share of the cost of any program or project to be funded under the award, the Administrator may increase the Federal share of the cost thereof to the extent the Administrator deems necessary.

## **C. Program Income**

All income generated as a direct result of an agency-funded project shall be deemed program income (e.g., if the purpose of the grant is to conduct conferences, any training fees that are generated would be considered program income).

### **Use of Program Income**

Program income may be used to further program objectives, or may be refunded to the Federal government. Program income may only be used for allowable program costs and must be expended prior to additional GCC drawdowns. (The drawdown restriction does not apply to JABG and JAG).

### **Accounting for Program Income**

Program income must be used for the purposes and under the conditions applicable to the award. Unless specified by the awarding agency, program income should be used as earned and expended as soon as possible. If the cost is allowable under the Federal grant program, then the cost would be allowable using program income. If program income earned on a discretionary grant during the grant period remains at the end of the grant period, the recipient should request a no cost extension of the grant period to provide the recipient with ample time to expend the program income for allowable project purposes. If there is no special condition on the award concerning the accounting for program income earned after the funding period, then such program income can be used at the discretion of the recipient. The Federal portion of program income must be accounted for up to the same ratio of Federal participation as funded in the project or program. For example:

- a. A discretionary project funded with 100% Federal funds must account for and report on 100% of the total program income earned. If the total program income earned was \$20,000, the recipient must account for and report the \$20,000 as program income.
- b. If a recipient was funded by formula/block funds at 75% Federal funds and 25% non-Federal funds and the total program income earned by the grant was \$100,000, \$75,000 must be accounted for and reported by the recipient as program income.

## Examples of Program Income

1. **Sale of Property.** In the case of real property purchased in part with Federal funds, the recipient and/or subrecipient may be permitted to retain title upon compensating the awarding agency for its fair share of the property. The Federal share of the property shall be computed by applying the percentage of the Federal participation in the total cost of the project for which the property was acquired to the current fair market value of the property.
2. **Royalties.** Recipient shall retain all royalties received from copyrights or other works developed under projects or from patents and inventions, unless the terms and conditions of the project provide otherwise, or a specific agreement governing such royalties has been negotiated between the awarding agency and the recipient.
3. **Attorney's Fees and Costs.** Income received pursuant to a court ordered award of attorney's fees or costs, which is received subsequent to completion of the project, is program income to the extent that it represents a reimbursement for attorney's fees and costs originally paid under the award. Disposition of such program income is subject to the restrictions on the use of program income set forth in the award.
4. **Registration/Tuition Fees.** These types of program income shall be treated in accordance with disposition instructions set forth in the project's terms and conditions.
5. **Asset Seizures and Forfeitures.** Program income from asset seizures and forfeitures is considered earned when the property has been adjudicated to the benefit of the plaintiff (i.e., law enforcement entity). Income received from the sale of seized and forfeited assets (personal or real property) or from seized and forfeited money shall follow the "Addition Method" of handling program income unless an alternate method is designated in the recipient's award document. The following policies apply to program income from asset seizures and forfeitures:
  - a. Subrecipient program income, with the approval of the recipient, may be retained by the entity earning the program income or used by the recipient for any purpose that furthers the objectives of the legislation under which the grant was made.
  - b. States or local units of government MAY USE PROGRAM INCOME FUNDS FROM SEIZED AND FORFEITURE ASSETS AS MATCH when assets are adjudicated by a State Court, in accordance with the State law. In addition, State and local units of government MAY use cash received under the equitable sharing program for the nonFederal portion (match) of program costs, as provided for in the guidelines established by the DOJ Asset Forfeiture Office, when the assets are adjudicated by a Federal Court.
6. **Membership Fees.** When an organization receives membership fees and its only source of income is Federal grant funds, the membership fees will generally be considered program income. Where non-member income is received and used to provide services to members in addition to the Federally funded services, membership income may be considered program income in proportion to the amount of Federal and non-Federal funds received. However, to the extent that membership fees were received by the organization prior to the receipt of Federal grant funds, or are used to provide services to members that are separate and distinct from grant-funded services, the membership fees need not be reported as program income.

#### **D. Adjustments to Awards**

All requests for programmatic and/or administrative budget changes must be submitted on a Grant Adjustment Request form (GCC-03) in a timely manner by the recipient/subrecipient. All requests for changes to the approved award will be carefully reviewed by the Grants Management Specialist for both consistency with this packet and their contribution to project goals and objectives. Written adjustment requests may be submitted at any time after award acceptance, but **no later than 60 calendar days** before the end date of the award. Following are the types of project changes allowed.

**Budget Modifications.** Grantees may request the following changes to the budget:

1. Movement of dollars between approved budget categories is allowed up to 10% of the total budget cost as last approved by the Governor's Crime Commission, provided there is no change in project scope. When the cumulative changes exceed this limit or change the scope of the project, prior approval from the GCC is required. Whether prior approval is required or not, the Grant Adjustment Request form must still be completed and forwarded to the Grants Management Specialist.
2. Changes which increase or decrease the total cost of the project
3. Addition of an item to the project budget
4. Changes in scope that affect the project budget.

NOTE: The ten percent rule applies to the cumulative total.

**Personnel Modifications.** Grantees may request the following personnel changes:

1. **Changes to the Grantee's Authorized Signing Official and/or Official's Contact Information.** A grantee may make changes to the person who is responsible for authorizing and signing official documents. These changes include name, address, phone number, email address, fax number, cell phone number, title, etc. for the Authorizing Official, Finance Officer, and/or Project Director.
2. **Changes to the Grantees's Contact Name or Key Staff and/or Contact Information.** A grantee may make changes to the information for main contacts or key staff. These changes specifically include name, address, phone number, email address, fax number, cell phone number, title, etc. This would also include notification of the temporary absence of the Project Director.

**Changes to the Scope of the Grant.** A grantee may make minor changes in methodology, approach, or other aspects of the grant to expedite achievement of the project's objectives. These changes might include:

1. Altering programmatic activities;
2. Affecting the purpose of the project;
3. Changing the project site; or

4. Change in organization with primary responsibility for implementation of the grant, contracting out, sub-granting, or otherwise obtaining the services of a third party to perform activities which are central to the purpose of the award.

**Date Changes.** A grant adjustment is required for a change in grant period, such as extension of the project period and date and/or extension of the expenditure deadline (no-cost extension).

**Organizational Changes.** A grantee may use a grant adjustment to make changes to the grant organization name and/or mailing address.

**Program Office Approvals.** Written approval is required for those costs specified in 2 CFR Part 215, 220, and 225 as “Costs Allowable with Approval of Awarding Agency”, or costs which contain special limitation. Examples include compensation for individual consultant services in excess of \$450/day, publication plans, or purchase of automatic data processing equipment and software.

#### **Notification**

All recipients must give prompt notification in writing to the Governor’s Crime Commission of events or proposed changes which may require an adjustment/notification. In requesting an adjustment, the recipient must set forth the reasons and basis for the proposed change and any other data deemed helpful for GCC review.

#### **Reprogramming of Funds**

The movement of funds awarded under Crime Control programs from one program to another contained in an approved State block or formula award which results in deletion or addition of a program or change in the subrecipient must be approved by the Governor’s Crime Commission prior to the expenditure of funds.

### **E. Property and Equipment**

#### **Acquisition of Property and Equipment**

Recipients/subrecipients are required to be prudent in the acquisition and management of property with grant funds. Expenditure of funds for the acquisition of new property, when suitable property required for the successful execution of projects is already available within the recipient or subrecipient organization will be considered an unnecessary expenditure.

#### **Screening**

Careful screening should take place before acquiring property in order to ensure that it is needed, with particular consideration given to whether equipment already in the possession of the recipient/subrecipient organization can meet identified needs. While there is no prescribed standard for such review, recipient procedures may establish levels of review dependent on factors such as the cost of the proposed equipment and the size of the recipient or subrecipient organization.

### **Loss, Damage, or Theft of Equipment**

Recipients are responsible for replacing or repairing the property which is willfully or negligently lost, stolen, damaged, or destroyed. Any loss, damage, or theft of the property must be investigated and fully documented and made part of the official project records.

### **Equipment Acquired with Crime Control Act Block/Formula Funds (BJA)**

Equipment acquired shall be managed to ensure that the equipment is used for criminal justice purposes. Standards and procedures governing ownership, use, management, and disposition are as follows.

1. **Title.** The Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 USC §3789, et seq., Section 808, requires that the title to all equipment and supplies purchased with funds made available under the Crime Control Act shall vest in the criminal justice agency or non-profit organization that purchased the property, if it provides written certification to the State office that it will use the property for criminal justice purposes. If such written certification is not made, title to the property shall vest in the State office, which shall seek to have the equipment and supplies used for criminal justice purposes elsewhere in the State prior to using it or disposing of it in any other manner.
2. **Use and Management.** A subrecipient or State shall use and manage equipment in accordance with its procedures as long as the equipment is used for criminal justice purposes.
3. **Disposition.** When equipment is no longer needed for criminal justice purposes, a State shall dispose of equipment (for both the State and subrecipients), in accordance with State procedures, with no further obligation to the awarding agency.

### **Equipment Acquired with Juvenile Justice Act (OJJDP) Formula and Victims of Crime Act (OVC) Assistance (Formula) Funds**

Equipment acquired under an award shall be managed to ensure that the equipment is used for criminal justice purposes. Standards and procedures governing ownership, use, management, and disposition are as follows.

1. **Title.** Title to equipment acquired under an award/subaward will vest upon acquisition in the recipient or subrecipient subject to the obligations and conditions set forth in 2 CFR Part 215.
2. **Use.** A State shall use equipment acquired under an award in accordance with State laws and procedures. The awarding agency encourages the States to follow the procedures set forth in this Guide. Other government recipients and subrecipients shall use equipment in accordance with the following requirements:
  - a. Equipment must be used by the recipient or subrecipient in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original

program or project, the equipment may be used in other activities currently or previously supported by a Federal agency.

- b. The recipient or subrecipient shall also make equipment available for use on other projects or programs currently or previously supported by the Federal government, providing such use does not interfere with the work on the projects or programs for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the awarding agency. User fees should be considered and treated as program income to the project, if appropriate.
- c. Notwithstanding program income, the recipient or subrecipient shall not use equipment acquired with funds to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically permitted, or contemplated by Federal statute.
- d. When acquiring replacement equipment, recipients or subrecipients may use the equipment to be replaced as a trade-in or sell the equipment and use the proceeds to offset the cost of the replacement equipment, subject to the written approval of the awarding agency.

### **3. Management.**

- a. A State shall ensure equipment acquired under an award to the State conforms to State laws and procedures over property.
- b. Other government recipient and subrecipient procedures for maintaining equipment (including replacement), whether acquired in whole or in part with project funds, will, at a minimum, meet the following requirements:
  - 1. Property records must be maintained which include:
    - a. Description of the property
    - b. Serial number or other identification number
    - c. Source of the property
    - d. Identification of title holder
    - e. Acquisition date
    - f. Cost of the property
    - g. Percentage of Federal participation in the cost of the property
    - h. Location of the property
    - i. Use and condition of the property
    - j. Disposition data, including the date of disposal and sale price.
  - 2. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
  - 3. A control system must exist to ensure adequate safeguards to prevent:
    - a. Loss
    - b. Damage
    - c. Theft of the property.

- d. Any loss, damage, or theft shall be investigated by the recipient and subrecipient, as appropriate.
- 4. Adequate maintenance procedures must exist to keep the property in good condition.
- 5. If the recipient or subrecipient is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

**4. Disposition.**

- a. A State recipient shall dispose of its equipment acquired under an award to the State in accordance with State laws and procedures.
- b. Other recipients and subrecipients shall dispose of the equipment when original or replacement equipment acquired under the award or subaward is no longer needed for the original project or program, or for other activities currently or previously supported by a Federal agency. Disposition of the equipment will be made as follows.
  - 1. Items with a current per unit fair market value of less than \$5,000 may be retained, sold, or otherwise disposed of with no further obligation to the awarding agency.
  - 2. Items with a current per unit fair market value in excess of \$5,000 may be retained or sold, and the awarding agency shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the awarding agency's share of the equipment. Seller is also eligible for sale costs.
  - 3. In cases where a recipient or subrecipient fails to take appropriate disposition actions, the awarding agency may direct the recipient or subrecipient to take other disposition actions.

**Equipment and Nonexpendable Personal Property Acquired With Discretionary Funds**

- 1. **Title.** Title to equipment acquired with Federal funds will vest upon acquisition in the recipient subject to the obligations and conditions set forth in 28 CFR Part 66 for State and local units of government, and in 28 CFR Part 70 for other recipients.
- 2. **Use.** A State shall use equipment acquired under an award by the State in accordance with State laws and procedures.

Local government recipients shall use equipment in accordance with the requirements contained in the section "EQUIPMENT ACQUIRED WITH JUVENILE JUSTICE ACT (OJJDP) FORMULA AND VICTIMS OF CRIME ACT (OVC) ASSISTANCE (FORMULA) FUNDS."

Other recipients shall use nonexpendable personal property in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original project or program, the recipients shall use the nonexpendable personal property in connection with its other federally sponsored activities in the following order of priority:

- a. Other projects of the awarding agency needing the property.
- b. Grants of a State needing the property.
- c. Projects of other Federal agencies needing the property.

3. **Management.**

a. A State shall ensure its equipment acquired under an award in accordance with State laws and procedures over property.

b. Local recipients and subrecipients shall ensure equipment in accordance with requirements stated in the section "EQUIPMENT ACQUIRED WITH JUVENILE JUSTICE ACT (OJJDP) FORMULA AND VICTIMS OF CRIME ACT (OVC) ASSISTANCE (FORMULA) FUNDS."

c. Other recipients' property management standards for nonexpendable personal property shall include the following procedural requirements:

1. Property records shall be maintained accurately and include:
  - (a) A description of the property;
  - (b) Manufacturer's serial number, model number, Federal stock number, or other identification number;
  - (c) Source of the property, including the award number;
  - (d) Whether title vests in the recipient or the Federal Government;
  - (e) Acquisition date (or date received, if the property was furnished by the Federal Government) and cost;
  - (f) Percentage (at the end of the budget year) of Federal participation in the cost of the project or program for which the property was acquired (not applicable to property furnished by the Federal Government);
  - (g) Location, use, and condition of the property at the date the information was reported;

(h) Unit acquisition cost; and

(i) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a recipient compensates the Federal-sponsoring agency for its share.

2. A physical inventory of property shall be taken and the results reconciled with the property records at least once every 2 years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property.
3. A control system shall be in effect to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented. If the property was owned by the Federal Government, the recipient shall promptly notify the Federal agency.
4. Adequate maintenance procedures shall be implemented to keep the property in good condition.
5. Where the recipient is authorized or required to sell the property, proper sales procedures shall be established which would provide for competition to the extent practicable and result in the highest possible return.

#### 4. Disposition.

- a. A state shall dispose of its equipment acquired under the award by the State in accordance with State laws and procedures.
- b. Local recipients and subrecipients shall follow the disposition requirements in the section "EQUIPMENT ACQUIRED WITH JUVENILE JUSTICE ACT (OJJDP) FORMULA AND VICTIMS OF CRIME ACT (OVC) ASSISTANCE (FORMULA) FUNDS."
- c. Other recipients shall adhere to the following disposition requirements for nonexpendable personal property:

(1) A recipient may use nonexpendable personal property with a fair market value of less than \$5,000 for other activities without reimbursement to the Federal Government, or may sell the property and retain the proceeds.

(2) A recipient may retain nonexpendable personal property with a fair market value of \$5,000 or more for other uses provided that compensation is made to the awarding agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the property. If the recipient has no need for the property and the property has further use value, the recipient shall request disposition instructions from the awarding agency. The awarding agency shall determine whether the property can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the property shall be reported to the General Services Administration (GSA) by the Federal agency to determine whether a requirement for the property exists in other Federal agencies. The awarding agency shall issue instructions to the recipient no later than 120 days after the recipient's request, and the following procedures shall govern:

(a) If so instructed, or if disposition instructions are not issued within 120 calendar days after the recipient's request, the recipient shall sell the property and reimburse the awarding agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the grant. However, the recipient shall be permitted to deduct and retain from the Federal share \$100 or 10 percent of the proceeds, whichever is greater, for the recipient's selling and handling expenses.

(b) If the recipient is instructed to ship the property to other agencies needing the property, the recipient shall be reimbursed by the benefiting Federal agency with an amount computed by applying the percentage of the recipient's participation in the cost of the project or program to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred.

(c) If the recipient is instructed to otherwise dispose of the property, the recipient shall be reimbursed by the awarding agency for such costs incurred in its disposition.

5. **Transfer of Title.** The awarding agency may reserve the right to transfer title to property acquired with Federal funds that have a fair market value of \$5,000 or more to the Federal Government or a third party named by the awarding agency, when such a third party is otherwise eligible under existing statutes. Such transfers are subject to the following standards:

- a. The property must be identified in the award or otherwise made known to the recipient in writing.
- b. The awarding agency shall issue disposition instructions within 120 calendar days after the end of the Federal support of the project for which it was acquired. If the awarding agency fails to issue disposition instructions within the 120-calendar day period, the recipient shall follow standards set in 28 CFR Parts 66 and 70.
- c. When title to property is transferred, the recipient shall be paid an amount calculated by applying the percentage of participation in the purchase to the current fair market value of the property.

## **Retention of Property Records**

Records for equipment and non-expendable personal property shall be retained for a period of five years from the date of the disposition or replacement or transfer. If any litigation, claim, or audit is started before the expiration of the five-year period, the records shall be retained until all litigations, claims, or audit findings involving the records have been resolved.

## **Supplies**

1. **Title.** Title to supplies acquired under an award or subaward vests, upon acquisition, in the recipient or subrecipient, respectively.
2. **Disposition.** If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate fair market value upon termination or completion of the funding support and the supplies are not needed for any other grant-sponsored programs or projects, the recipient or subrecipient shall compensate the awarding agency for its share. The amount of compensation shall be computed in the same manner as for non-expendable personal property or equipment.

## **Copyrights**

The awarding agency reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for Federal government purposes:

1. The copyright in any work developed under an award or subaward
2. Any rights of copyright to which a recipient or subrecipient purchases ownership with support.

## **Patents, Patent Rights, and Inventions**

If any program produces patentable items, patent rights, processes, or inventions, in the course of work sponsored by the Federal award or subaward funds, such facts must be promptly and fully reported to the awarding agency. Unless there is a prior agreement between the recipient and the awarding agency on disposition of such items, the awarding agency shall determine whether protection on the invention or discovery shall be sought. The awarding agency will also determine how rights in the invention or discovery (including rights under any patents issued thereon) shall be allocated and administered in order to protect the public interest consistent with "Government Patent Policy" (President's Memorandum for Heads of Executive Departments and Agencies, dated August 23, 1971, and statement of Government Patent Policy, as printed in 36 FR 16839). Government-wide regulations have been issued at 37 CFR Part 401 by the Department of Commerce.

## E. Allowable Costs

### Background

Allowable costs are those costs identified in the circulars and in the grant program's authorizing legislation. In addition, costs must be reasonable, allocable, necessary to the project, and comply with the funding statute requirements. **Funds awarded are to be expended only for purposes and activities covered by the subgrantee's approved application project plan and budget.**

### Compensation for Personal Services

1. **Two or More Grant Programs.** Where salaries apply to execution of two or more grant programs, cost activities, project periods, and/or overlapping periods, **proration of costs to each activity must be made based on time and/or effort reports.** In cases where two or more grants constitute one identified activity or program, salary charges to one grant may be allowable after written permission is obtained from the awarding agency. Salary supplements, including severance provisions and other benefits with non-grant funds, are prohibited without approval of the awarding agency.
2. **Extra Work.** A State or local government employee may be employed by a recipient or subrecipient, in addition to his or her full-time job, provided the work is performed on the employee's own time and:
  - a. The compensation is reasonable and consistent with that paid for similar work in other activities of State or local government
  - b. The employment arrangement is approved and proper under State or local regulation (e.g., no conflict of interest)
  - c. The time and/or services provided are supported by adequate documentation.

To avoid problems arising from overtime, holiday pay, night differential, or related payroll regulations, such employment arrangements should normally be made directly by the recipient or subrecipient with the individual, unless there has been a transfer or loan of the employee for which his/her regular and overtime services provided are to be charged to or reimbursed by the recipient or subrecipient. Overtime and night differential payments are allowed only to the extent that payment for such services is in accordance with the policies of the State or unit(s) of local government and has the approval of the State or the awarding agency, whichever is applicable.

NOTE: The overtime premium should be prorated among the jobs and not charged exclusively to the awarding agency funds.

Payment of these premiums will be for work performed by award or subaward employees in excess of the established work week (usually 40 hours). Executives, such as the President or Executive Director of an organization, may not be reimbursed for overtime or compensatory time under grants and cooperative agreements. Payment of more than occasional overtime is subject to periodic review by the awarding agency.

3. **Award Purposes and Dual Compensation.** Charges for the time of State and local government employees assigned to assistance programs may be reimbursed to the extent they are directly and exclusively related to the award.

Note: In no case is dual compensation allowable. That is, an employee of a unit of government may not receive compensation from his/her unit or agency of government AND from an award for a single period of time (e.g., 1 p.m. to 5 p.m.), even though such work may benefit both activities.

Job descriptions for all positions listed in personnel, including those used as match, must be forwarded to the Grants Management Specialist at the beginning of the grant period.

### **Conferences and Workshops**

Allowable costs may include:

- Conference or meeting arrangements;
- Publicity;
- Registration;
- Salaries of personnel;
- Rental of staff offices;
- Conference space;
- Recording or translation services;
- Postage;
- Telephone charges;
- Travel expenses (this includes transportation and subsistence for speakers or participants);
- Lodging.

### **Food and Beverages**

Food and/or beverage expenses provided by recipients are allowable subject to the following conditions:

- Food and/or beverages are provided to participants at training sessions, meetings, or conferences that are allowable activities under the particular OJP program guidelines.
- Expenses incurred for food and/or beverages and provided at training sessions, meetings, or conferences must satisfy the following three tests:

Test 1 -- The cost of the food and/or beverages provided is considered to be reasonable.

Test 2 -- The food and/or beverages provided are incidental to a work related event.

Test 3 -- The food and/or beverages provided are not related directly to amusement and/or social events. **(Any event where alcohol is being served is considered a social event; and, therefore, costs associated with that event are not allowable.)**

- The recipient adheres to the applicable definitions for food and beverages contained in the Financial Guide Glossary.

Each recipient that desires to purchase food and/or beverages under a grant, or contract under a grant, should follow the food and beverage policy guidelines. Guidance should be applied within the context of each individual situation. While food and/or beverages are allowable, recipients are not required to provide them at training sessions, meetings, or conferences.

To determine whether costs associated with food and/or beverages are allowable, the recipient or subrecipient providing the food and/or beverages must consider:

1. To whom the food and/or beverages will be provided;
2. Under what conditions the food and/or beverages will be provided; and
3. That the appropriate three tests have been satisfied.

**Unallowable costs include, but are not limited to, costs directly related to entertainment or to the purchase of alcohol.**

NOTE: Anyone under per diem allowances or reimbursements who attends any of these events at which food and beverages are provided must deduct the cost of any meals (i.e. lunch, dinner) provided from his/her per diem allowances.

The top ten tips for provisions of food and beverages under OJP grants are as follows:

1. Provide a speaker at a lunch or dinner.
2. Support the event with a formal agenda.
3. The event must be mandatory for all participants.
4. Do not pay for bar charges using registration fees (i.e. program income).
5. Do not make alcohol available at the event.
6. Provide appropriate break foods (refer to the Financial Guide Glossary for definition of break foods).
7. Surrounding events must provide several hours of substantive information.
8. Do not end events with a meal and/or break.
9. Costs must be reasonable.
10. As a participant, reduce per diem appropriately.

NOTE: Exhibits are not deemed substantive information.

## **Travel**

Travel costs are allowable as expenses by employees who are in travel status on official business. These costs must be in accordance with State or an organizationally approved travel policy. Recipients may follow their own established travel rates. However, the Governor's Crime Commission reserves the right to determine the reasonableness of those rates. If a recipient does not have a written travel policy, the recipient must abide by the State travel policy. Prior approval by the GCC is required for all out-of-state travel to be paid by grant funds.

A copy of the grantee's "board approved" travel policy should be forwarded to the Grants Management Specialist at the beginning of the grant period.

## Space

The cost of space in privately- or publicly-owned buildings used for the benefit of the program is allowable subject to the conditions stated below:

- The total cost of space may not exceed the rental cost of comparable space and facilities in a privately-owned building in the same locality.
- The cost of space procured for program usage may not be charged to the program for periods of non-occupancy.
- A copy of the Lease agreement should be forwarded to the Grants Management Specialist at the beginning of the grant period.

1. **Rental Cost.** The rental cost of space in a privately-owned building is allowable. Rent cannot be paid if the building is owned by the grantee or if the grantee has a substantial financial interest in the property. Similar costs for a publicly-owned building are allowable where "rental rate" systems, or equivalent systems that adequately reflect actual costs, are employed.

Such charges must be determined on the basis of actual cost (including depreciation based on the useful life of the building, operation and maintenance, and other allowable costs). Where these costs are included in rental charges, they may not be charged elsewhere. No costs will be included for purchases or construction that was originally financed by the government.

2. **Maintenance and Operation.** The cost of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, normal repairs and maintenance, and the like are allowable to the extent they are not otherwise included in rental or other charges for space.
3. **Rearrangements and Alterations.** Costs incurred for rearrangement and alteration of facilities required specifically for the award program, or those that materially increase the value or useful life of the facility, are allowable when specifically approved by the awarding agency.

Approval will be granted only where it can be shown that (a) the facility involved is in reasonably good condition with a life expectancy of five years or more; (b) the costs are true arrangements or renovation costs not involving the erection, acquisition, expansion or repair of new or existing buildings or other physical facilities; and (c) total costs do not exceed 25% of the current value of the building.

4. **Depreciation and Use Allowances on Publicly Owned Buildings.** Depreciation or a use allowance on idle or excess facilities is NOT ALLOWABLE, except when specifically authorized by the Federal awarding agency.
5. **Occupancy of Space under Rental-Purchase or a Lease with Option-to-Purchase Agreement.** The cost of space procured under such arrangements is allowable when specifically approved by the awarding agency. This type of arrangement may require application of special matching share requirements under construction programs.

## Printing

Printing shall be construed to include and apply to the process of composition, plate-making, presswork, binding, and microfilm; the equipment, as classified in the tables in Title II of the Government Printing and Binding Regulations, published by the Joint Committee on Printing, Congress of the United States, and as used in such processes; or the end items produced by such processes and equipment. Pursuant to the Government Printing and Binding Regulations, no project may be awarded primarily or substantially for the purpose of having material printed for the awarding agency. The Government Printing and Binding Regulations allow:

1. **Issuance.** The issuance of a project for the support of non-government publications, provided such projects were issued pursuant to an authorization of law and were not made primarily or substantially for the purpose of having material printed for the awarding agency.
2. **Publications by Recipients/Subrecipients.** The publication of findings by recipients/subrecipients within the terms of their project provided that such publication is not primarily or substantially for the purpose of having such findings printed for the awarding agency.

## Publication

Publication shall be construed as the initiation of the procurement of writing, editing, preparation of related illustration material, including videos, from recipients/subrecipients, or the internal printing requirements of the recipient/subrecipient necessary for compliance with the terms of the project. However, individuals are authorized to make or have made by any means available to them, without regard to the copyright of the journal and without royalty, a single copy of any such article for their own use.

Project Directors are encouraged to make the results and accomplishments of their activities available to the public. A recipient/subrecipient who publicizes project activities and results shall adhere to the following:

1. Responsibility for the direction of the project activity should not be ascribed to the awarding agency. The publication shall include the following statement: "The opinions, findings, and conclusions or recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice." The receipt of awarding agency funding does not constitute official recognition or endorsement of any project. A separate application for Official Recognition may be filed with the awarding agency.
2. All materials publicizing or resulting from award activities shall contain an acknowledgement of the awarding agency assistance. An acknowledgement of support shall be made through use of the following or comparable footnote: "This project was supported by Award No. \_\_\_\_\_ awarded by the U.S. Department of Justice, through the N.C. Department of Crime Control & Public Safety / Governor's Crime Commission."

3. A recipient/subrecipient is expected to publish or otherwise make widely available to the public, as requested by the awarding agency, the results of work conducted or produced under an award.
4. All publication and distribution agreements with a publisher shall include provisions giving the Federal government a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use the publication for Federal government purposes. The agreements with a publisher should contain information on the awarding agency requirements.
5. Unless otherwise specified in the award, the recipient/subrecipient may copyright any books, publications, films, or other copyrightable material developed or purchased as a result of award activities. Copyrighted material shall be subject to the same provisions of the Federal government.
6. The recipient/subrecipient shall be permitted to display the official awarding agency logo in connection with the activities supported by the award. In this respect, the logo shall appear in a separate space, apart from any other symbol or credit.

The words "Funded/Funded in part by OJP" shall be printed as a legend, either below or beside the logo each time it is displayed. Use of the logo must be approved by the awarding agency.

7. The recipient/subrecipient shall submit a publication and distribution plan to the awarding agency before materials developed under an award are commercially published or distributed. The plan shall include a description of the materials, the rationale for commercial publication and distribution, the criteria to be used in the selection of a publisher, and, to assure reasonable competition, the identification of firms that will be approached. Prior agency approval of this plan is required for publishing project activities and results when Federal funds are used to pay for the publication.

### **Duplication**

A requirement for a recipient/subrecipient to duplicate less than 5,000 units of only one page, or less than 25,000 units in the aggregate of multiple pages, of its findings for the awarding agency will not be deemed to be printing primarily or substantially for the awarding agency (e.g., 5,000 copies of five pages, etc.). For the purpose of this paragraph, such pages may not exceed a maximum image size of 10 3/4" by 14 1/4".

### **Production**

A requirement for a recipient/subrecipient to produce less than 250 duplicates from original microfilm will not be deemed to be printing primarily or substantially for the awarding agency. Microfilm is defined as one roll of microfilm 100 feet in length or one microfiche.

### **Other Allowable Costs**

1. **Software development.** This is an allowable cost and may be expensed in the period incurred with no dollar limitation.

2. **Depreciation.** This is an allowable cost and an accelerated method should not be used.
3. **Post-employment benefits.** These are allowable costs if funded in accordance with actuarial requirements. Funds must be paid within six months of recordation.
4. **Technology awards.** These are allowable costs and the drawdown of funds may be prohibited until the State Information Technology Point of Contact person has received written notification of the project and a Grant Adjustment Notice (GAN) has been issued by the awarding agency.
5. **Contingency Fee Contracts for Recovery of Improper Payments.** Costs of contingency fee contracts incurred by state and local governments for recovery of erroneous and improper payments charged against Federal programs are allowable costs. State and local governments may use a portion of the recovered erroneous or fraudulent payments from Federal programs to pay for recovery contracts. The portion used to pay for such contingency fees should be claimed as administrative costs.

#### **G. Subawards of Discretionary Project-Supported Effort**

None of the principal activities of the project-supported effort shall be subawarded to another organization without specific prior approval by the awarding agency. Where the intention to make subawards is made known at the time of application, the approval may be considered given, if these activities are funded as proposed.

All such arrangements must be formalized in a contract or other written agreement between the parties involved. The contract or agreement must, at a minimum, include:

- Activities to be performed
- Time schedule
- Project policies
- Flow-through requirements that are applicable to the subrecipient
- Other policies and procedures to be followed
- Dollar limitation of the agreement
- Cost principles to be used in determining allowable costs

The contract or other written agreement must not affect the primary recipient's overall responsibility for the duration of the project and accountability to the Federal or State government. The primary recipient is responsible for monitoring the subrecipient and ascertaining that all fiscal and programmatic responsibilities are fulfilled.

#### **H. Procurement Under Awards of Federal Assistance**

##### **Procurement Standards**

1. **General.** A State shall follow the same policies and procedures it uses for procurement from its non-Federal funds. The State shall ensure that every purchase order or other

contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Subrecipients of States shall follow the procurement requirements imposed upon them by the States.

2. **Standards.** Recipients and subrecipients shall use their own procurement procedures and regulations, provided that the procurement conforms to applicable Federal law and the standards identified in the Procurement Standards Sections of 28 CFR Parts 66 and 70. Any recipient/subrecipient whose procurement system has been certified by a Federal agency is not subject to prior approval requirements of 28 CFR Parts 66 and 70. The awarding agency's prior approval will be required only for areas beyond limits of the recipient/subrecipient certification.
3. **Adequate Competition.** All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. All sole source procurements must receive prior approval from the Governor's Crime Commission and any sole-source procurements in excess of \$100,000 must receive prior approval of the Federal awarding agency. Interagency agreements between units of government are excluded from this provision.
4. **Non-competitive Practices.** The recipient/subrecipient shall be alert to organizational conflicts of interest or non-competitive practices among contractors which may restrict or eliminate competition or otherwise restrain trade. Contractors that develop or draft specifications, requirements, statements of work, and/or Requests for Proposals for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to the awarding agency, and will not be effective unless the awarding agency approves the request.

### **Professional Services**

The customary fixed fee or profit allowance in cost-type contracts may not exceed 10 percent of the total estimated costs. This is applicable to contracts under grants.

### **I. Retention and Access Requirements for Records**

#### **Retention of Records**

In accordance with the requirements set forth by the North Carolina Administrative Code, all financial records, supporting documents, statistical records, and all other records pertinent to the award shall be retained by each organization for AT LEAST FIVE YEARS following the closure of their audit report covering the entire award period. Retention is required for purposes of Federal or State examination and audit. Records may be retained in an automated format. Local governments may impose record retention and maintenance requirements in addition to those prescribed.

1. **Coverage.** The retention requirement extends to books of original entry, source documents supporting accounting transactions, the general ledger, subsidiary ledgers,

personnel and payroll records, cancelled checks, and related documents and records. Source documents include copies of all awards, applications, and required recipient financial and narrative reports. Personnel and payroll records shall include the time and attendance reports for all individuals reimbursed under the award, whether they are employed full time or part time. Time and effort reports are also required for consultants.

2. **Retention Period.** The five year retention period starts from the date of the submission of the closure of the single audit report which covers the entire award period. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the five year period, the records must be retained until completion of the action and resolution of all issues which arise from it or until the end of the regular five year period, whichever is later.

### **Maintenance of Records**

Recipients of funds are expected to see that records of different Federal or State fiscal periods are separately identified and maintained so that information desired may be readily located. Recipients are also obligated to protect records adequately against fire or other damage. When records are stored away from the recipient's principal office, a written index of the location of records stored should be on hand and ready access should be assured.

### **Access to Records**

The awarding agency includes the Governor's Crime Commission, the Federal agency, the DOJ Office of the Inspector General, the Comptroller General of the United States, the North Carolina State Auditor, the State Bureau of Investigation, or any of their authorized representatives, who shall have the right of access to any pertinent books, documents, papers, or other records of recipients which are pertinent to the award, in order to make audits, examinations, excerpts, and transcripts. The right of access must not be limited to the required retention period but shall last as long as the records are retained.

However, only under extraordinary and rare circumstances would such access include review of the true name of confidential informants or victims of crime. When access to the true name of confidential informants or victims of crime is necessary, appropriate steps to protect this sensitive information must and will be taken by the recipient and awarding agency. Any such access, other than under a court order or subpoena pursuant to a bona fide confidential investigation, must be approved by both the OJP program office head and the Comptroller.

Pursuant to Sections 223(a)(18) and 296 of the JJDP Act, the grantee assures that procedures have been established to ensure that programs funded under the JJDP Act shall not disclose program records containing the identity of individual juveniles. Exceptions to this requirement: (a) authorization by law, (b) consent of either the juvenile or his legally authorized representative, or (c) justification that otherwise the functions of this title cannot be performed. Under no circumstances may public project reports or findings contain names of actual juvenile service recipients.

## **Release of Information**

All records, papers, and other documents kept by the Subgrantee and any contractors under the grant relating to the receipt and disposition of the Office of Justice Programs and the Governor's Crime Commission funds, including applications for funds, are required to be made available under the terms and conditions of the Federal Freedom of Information Act (5 U.S.C. 552) and state regulations. These records must be kept on file for five years following the close of the grant. However, if any litigation, claim or audit is started before the expiration of the five-year period, then records must be retained for five years after the litigation, claim or audit is resolved.

## **J. Sanctions**

If a recipient materially fails to comply with the terms and conditions of an award, including civil rights requirements, whether stated in a Federal or State statute, regulation, assurance, application, or notice of award, the awarding agency may take one or more of the following actions, as appropriate in the circumstances. This authority also extends to the recipient agency.

1. Temporarily withhold cash payments pending correction of the deficiency by the recipient.
2. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
3. Wholly or partly suspend or terminate the current award. Upon termination, any outstanding reimbursements will be forfeited by the recipient.
4. Withhold further awards for the project, program, or organization.
5. Take other remedies that may be legally available.

## **K. Termination for Convenience**

The awarding agency may terminate any project, in whole or in part, when a recipient materially fails to comply with the terms and conditions of an award, which includes the unauthorized use of payment access codes by someone other than the grantee of record, or when the recipient and the awarding agency agree to do so. In the event that a project is terminated, the awarding agency will:

1. Notify the recipient in writing of its decision;
2. Specify the reason;
3. Afford the recipient/subrecipient a reasonable time to terminate project operations;
4. Request the recipient seek support from other sources.

A project which is prematurely terminated will be subject to the same requirements regarding audit, recordkeeping, and submission of reports as a project which runs for the duration of the project period.

## **L. Costs Requiring Prior Approval**

Written approval is required for those costs specified in 2 CFR 220, 2 CFR 225, and 2 CFR 230 as “Costs Allowable with Approval of Awarding Agency”.

### **Consultant Rates**

Compensation for individual consultant services is to be reasonable and consistent with that paid for similar services in the marketplace. Consideration will be given to compensation including fringe benefits for those individuals whose employers do not provide the same. In addition, when the rate exceeds \$450 (excluding travel and subsistence costs) for an eight-hour day, a written PRIOR APPROVAL is required from the awarding agency. Prior approval requests require additional justification. An eight-hour day may include preparation, evaluation, and travel time in addition to the time required for actual performance. **Please note, however, that this does not mean that the rate can or should be \$450 for all consultants.** Rates should be developed and reviewed on a case-by-case basis and must be reasonable and allowable in accordance with OMB cost principles. The following is the policy in regard to compensation of various classifications of consultants who perform like-type services. If consultants are hired through a competitive bidding process (not sole source), the \$450 threshold does not apply.

1. **Consultants Associated with Educational Institutions.** The maximum rate of compensation that will be allowed is the consultant's academic salary projected for 12 months, divided by 260. These individuals normally receive fringe benefits which include sick leave for a full 12-month period even though they normally only work nine months per year in their academic positions.
2. **Consultants Employed by State and Local Government.** Compensation for these consultants will only be allowed when the unit of government will not provide these services without cost. If a State or local government employee is providing services under a Federal grant and is representing their agency without pay from their respective unit of government, the rate of compensation is not to exceed the daily salary rate for the employee paid by the unit of government. If the State or local government employee is providing services under a Federal grant and is not representing their agency, the rate of compensation is based on the necessary and reasonable cost principles.
3. **Consultants Employed by Commercial and Not-For-Profit Organizations.** These organizations are subject to competitive bidding procedures. Thus, they are not subject to the \$450 per day maximum compensation threshold before requesting prior approval. In those cases where an individual has authority to consult without employer involvement, the rate of compensation should not exceed the individual's daily salary rate paid by his/her employer, subject to the \$450 limitation.
4. **Independent Consultants.** The rate of compensation for these individuals must be reasonable and consistent with that paid for similar services in the marketplace. Compensation may include fringe benefits. In summary, consultants obtained through competitive bidding do not require prior approval, including individual consultants.

## **M. Unallowable Costs**

### **Indirect Costs**

The North Carolina Administrative Code does not allow grantees to charge indirect costs against Governor's Crime Commission awards. Indirect costs are costs not readily assignable to a particular project, (i.e.: maintenance of facilities, administrative salaries, etc.).

### **Travel of Federal/GCC Employees**

Costs of transportation, lodging, subsistence, and related travel expenses of awarding agency employees are unallowable charges. Travel expenses of other Federal employees for advisory committees or other program or project duties or assistance are allowable if they have been:

1. Approved by the Federal employee's Department or Agency
2. Included as an identifiable item in the funds budgeted for the project or subsequently submitted for approval.

### **Lobbying**

All recipients must comply with the provisions of the government-wide Common Rule on Restrictions on Lobbying, as appropriate. Refer to the Application Process for more specifics about those provisions. The lobbying cost prohibition applicable to all recipients includes the following statements. No funds may be used for the purposes of:

1. Attempting to influence the outcome of any Federal, State, or local election, referendum, initiative, or similar procedure, through in-kind or cash contributions, endorsements, publicity, or similar activity;
2. Establishing, administering, contributing to, or paying for the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcome of elections.
3. Attempting to influence: (a) the introduction of Federal or State legislation; or (b) the enactment or modification of any pending Federal or State legislation through communication with any member or employee of the Congress or State legislature (including efforts to influence State or local officials to engage in similar lobbying activity), or with any government official or employee in connection with a decision to sign or veto enrolled legislation;
4. Publicity or propaganda purposed designed to support or defeat legislation pending before legislative bodies;
5. Paying, directly or indirectly, for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a member of Congress or of a State legislature, to favor or oppose, by vote or otherwise, any legislation or appropriation by either Congress or a State legislature,

whether before or after the introduction of any bill or resolution proposing such legislation or appropriation;

6. Engaging in legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding legislation, and analyzing the effect of legislation, when such activities are carried out in support of or in knowing preparation for an effort to engage in unallowable lobbying; or
7. Paying a publicity expert.

The Anti-Lobbying Act, 18 U.S.C. § 1913, recently was amended to expand significantly the restrictions on use of appropriated funding for lobbying. The expansion also makes the anti-lobbying restrictions enforceable via large civil penalties, with civil fines between \$10,000 and \$100,000 per each individual occurrence of lobbying activity. These restrictions are in addition to the anti-lobbying and lobbying disclosure restrictions imposed by 31 U.S.C. § 1352.

All grantees must understand that no federally appropriated funding made available under this grant program may be used, either directly or indirectly, to support the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government, without the express approval of OJP. Any violation of this prohibition is subject to a minimum \$10,000 fine for each occurrence. This prohibition applies to all activities, even if currently allowed within the parameters of the existing OMB circulars.

### **Fund Raising**

Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions, may not be charged as costs against the award. Neither the salary of persons engaged in such activities nor matching costs associated with those salaries may be charged to the award for the period of time spent performing fund raising activities.

Nothing in this section should be read to prohibit a recipient from engaging in fund raising activities as long as such activities are not financed by grant or matching funds.

### **Land Acquisition**

The funding legislation specifies that no Federal award involving the renting, leasing, or construction of buildings or other physical facilities shall be used for land acquisition. Accordingly, land acquisition costs are unallowable.

### **Bonuses or Commissions**

The recipient or subrecipient is prohibited from paying any bonus or commission to any individual or organization for the purpose of obtaining approval of an application for award assistance. Bonuses to officers or board members of profit or non-profit organizations are determined to be a profit or fee and are unallowable.

### **Military-Type Equipment**

Costs for such items as armored vehicles, explosive devices, and other items typically associated with the military arsenal, excluding automatic weapons, are unallowable. Exceptions MAY be made by the awarding agency upon a written request and justification from the recipient.

### **State and Local Sales Taxes**

These are unallowable when the government assesses taxes upon itself or, disproportionately, to Federal programs. An example of an unallowable tax would be if the government levied taxes as a result of Federal funding. An example of an allowable tax would be user taxes, such as gasoline tax.

### **Corporate Formation**

The costs for corporate formation may not be charged against the award.

### **Other Unallowable Costs**

Unallowable costs include:

- Honorariums
- Stipends
- Incentives
- Compensation of Federal/GCC employees
- Fines & penalties (except when incurred as a result of compliance with specific provisions of an award or instructions in writing from the awarding agency)
- Entertainment
- Sporting events
- Visa fees
- Passport charges
- Tips
- Bar charges/Alcoholic beverages
- Laundry charges
- Lodging costs in excess of Federal per diem
- Membership fees to organizations whose primary activity is lobbying are unallowable
- Premium pay. Grantees should not pay premium cost solely because they are using grant funds.

### **Costs Incurred Outside the Project Period**

Any costs that are incurred either before the start of the project period or after the expiration of the project period are not allowable, unless written approval is granted by the awarding agency.

## **N. Closeout**

### **Closeout of Awards**

The timeframe for closeout of awards is 45 days from the end date of the grant period. However, recipients should start the closeout process as soon as the grant ends. Cash disbursements and recipient expenditures must be reconciled before closeout.

After 45 days from the end of the grant period, if the recipient has not submitted a final cost report, supporting documentation, and all final programmatic reports, the grant will be terminated. Upon termination, all outstanding reimbursements will be forfeited by the recipient.

### **Refund of Grant Monies and/or Program Income at Closeout**

If funds must be returned at award closeout, award recipients should remit their check with a cover letter indicating the grant number, the unobligated balance, and the itemization of returned monies, e.g., excess payments, interest income, program income, questioned costs, etc.

All refund checks should be made payable to: *N.C. Department of Crime Control and Public Safety*. Letters and checks should be mailed to:

*(insert name here)*, Grants Management Specialist  
Governor's Crime Commission  
1201 Front Street, Suite 200  
Raleigh, NC 27609

### **Failure to Remit Funds Owed**

Failure to remit funds due to the Governor's Crime Commission will result in withholding or freezing of funds on all other grants awarded to the grantee organization, and may impact future financial integrity reviews affecting future grant applications.

## **O. Audit Requirements**

This section establishes responsibilities for the audit of organizations receiving agency funds. The intent of this section is to identify the policies for determining the proper and effective use of public funds rather than to prescribe detailed procedures for the conduct of an audit.

### **Audit Objectives**

Awards are subject to conditions of fiscal, program, and general administration to which the recipient expressly agrees. Accordingly, the audit objective is to review the recipient's administration of funds and required match contributions for the purpose of determining whether the recipient has:

1. Established an accounting system integrated with adequate internal fiscal and management controls to provide full accountability for revenues, expenditures, assets, and liabilities. This system should provide reasonable assurance that the organization is managing governmental financial assistance programs in compliance with applicable laws and regulations.
2. Prepared financial statements which are presented fairly, in accordance with generally accepted accounting principles.
3. Submitted financial reports which contain accurate and reliable financial data, and are presented in accordance with the terms of applicable agreements.
4. Expended grant funds in accordance with the terms of applicable agreements and those provisions of Federal or State law or regulations that could have a material effect on the financial statements or on the awards tested.

### **Audit Reporting Requirements**

Independent auditors should follow the requirements prescribed in OMB Circular A-133. The grantee's books of account must support all amounts reported to the State Auditor's office. The grantee's financial activity reported should reconcile to the amounts reported on the grantee's audited financial statements. If there are any differences between the grantee's audited financial statements and the financial activity reported, the grantee must be able to explain the differences.

If the auditor becomes aware of illegal acts or other irregularities, prompt notice shall be given to recipient management officials above the level of involvement. The recipient, in turn, shall promptly notify the appropriate Federal or State agency of the illegal acts or irregularities and of proposed and actual actions, if any.

All awarding agency personnel have the responsibility to inform the OJP's Office of the Comptroller, DOJ's Office of Professional Responsibility, the Office of Inspector General, and State and local law enforcement agencies or prosecuting authorities, as appropriate, of any known violations of the law within their respective area of jurisdiction.

Audit costs for audits not required or performed in accordance with OMB Circular A-133 are unallowable. If the grantee did not expend \$500,000 or more in Federal funds in its fiscal year, but contracted with a certified public accountant to perform an audit, these costs may not be charged to the grant.

### **Audit Threshold**

Non-federal entities that expend \$500,000 or more in Federal funds (from all sources including passthrough subawards) in the organization's fiscal year (12-month turnaround reporting period) shall have a single organizationwide audit conducted in accordance with the provisions of OMB

Circular A-133. Non-federal entities that expend less than \$500,000 a year in Federal awards are exempt from Federal audit requirements for that year.

HOWEVER, pursuant to North Carolina General Statute 143C-6-23, the State Auditor's Office established mandatory annual (based on the agency fiscal year) reporting requirements for ALL grantees and subgrantees to provide financial and program performance information to ensure that grant funds are spent in accordance with the purposes for which they were awarded. The requirements for nongovernmental subgrantees follows in the section entitled "Grants Information Center – General Instructions for GIC Grantee Users" (green pages).

### **Failure to Comply**

Failure to have an audit, or to complete forms required by the State Auditor's office, will result in the withholding of new discretionary awards and/or withholding of funds on active awards.

### **Resolution of Audit Reports**

Timely action on recommendations by responsible management officials is an integral part of the effectiveness of an audit. Each recipient shall have policies and procedures for responding to audit recommendations by designating officials responsible for:

1. Following up;
2. Maintaining a record of the action taken on recommendations and time schedules for completing corrective action;
3. Implementing audit recommendations;
4. Submitting periodic reports to the GCC on recommendations and actions taken.

The awarding agency monitors the audit requirements through its audit tracking system and is responsible for tracking audit reports received through the audit process until the audit has been resolved and closed.

### **Audit of Subrecipients**

When subawards are made to another organization or organizations, the recipient shall require that subrecipients comply with the audit requirements set forth in this chapter. Recipients are responsible for ensuring that subrecipient audit reports are received and for resolving any audit findings. Known or suspected violations of any law encountered during audits, including fraud, theft, embezzlement, forgery, or other serious irregularities, must be communicated to the recipient.

For subrecipients who are not required to have an audit as stipulated in OMB Circular A-133, the recipient is still responsible for monitoring the subrecipients' activities to provide reasonable assurance that the subrecipient administered grant awards in compliance with Federal and State requirements.

## **Audit Confirmation Requests**

Send all CPA requests for confirmation of payments made during the fiscal year to:

*(insert name here)*, Grants Management Specialist  
Governor's Crime Commission  
1201 Front Street, Suite 200  
Raleigh, NC 27609

ALL requests must include the grant number in question, or they will not be processed.

## **IV. Catalog of Federal Domestic Assistance Numbers (CFDA #s)**

|   |        |
|---|--------|
| Byrne Justice Assistance Grants (JAG)   | 16.738 |
| Byrne Justice Assistance Grants (JAG) – RECOVERY ACT  | 16.803 |
| Children's Justice  | 93.643 |
| Crime Victim Assistance (Victims of Crime Act - VOCA)   | 16.575 |
| Crime Victim Assistance (VOCA) – RECOVERY ACT   | 16.801 |
| Convicted Offender DNA Backlog Reduction  | 16.748 |
| DNA Capacity Enhancement  | 16.741 |
| Electronic Monitoring   | 16.590 |
| Forensic Casework DNA Backlog Reduction   | 16.743 |
| Juvenile Accountability Incentive Block Grants (JAIBG)  | 16.523 |
| Juvenile Justice Delinquency Prevention (JJDP)  | 16.540 |
| National Criminal History Improvement Program (NCHIP)   | 16.554 |
| NC Office Support for the Adam Walsh Act  | 16.750 |
| NC SAVAN Sex Offender / Public Protection   | 16.740 |
| NC SBI Crime Laboratory   | 16.580 |
| Paul Coverdell National Forensic Sciences Improvement   | 16.742 |
| Planning, Implementing, & Enhancing Strategies in<br>Community Prosecution (PSN)                | 16.609 |
| Planning, Implementing, & Enhancing Strategies in<br>Community Prosecution – Anti-Gang (PSN-AG) | 16.744 |
| Residential Substance Abuse Treatment for State Prisoners (RSAT)                                | 16.593 |
| Rural Domestic Violence & Child Victimization Enforcement                                       | 16.589 |
| State Justice Statistics Program for Statistical Analysis Centers                               | 16.550 |
| Title V Delinquency Prevention Program  | 16.548 |
| Violence Against Women Formula Grants (VAWA)  | 16.588 |
| Wake/Durham Gang Prevention Partnership   | 16.744 |